

REMARKS

Claim 32 has been canceled. Claims 1-31 and 33 are pending in the application.

Applicants amend claims 1-5, 7, 10-17, 19-24, 26-31, and 33 for further clarification. No new matter has been added.

Claims 1-31 and 33 stand rejected under 35 U.S.C. § 103(a) for being unpatentable over U.S. Patent No. 6,757,520 to Attar et al. in view of U.S. Patent Application Publication No. 2002/0147022 to Subramanian et al. Applicants amend claims 1-5, 7, 10-17, 19-24, 26-31, 26-31, and 33 in a good faith effort to further clarify the invention as distinguished from the cited references, and respectfully traverse the rejection.

The Examiner conceded that Attar et al. fail to disclose “selecting the base station as an active base station based on the measure of the quality of service,” and relied upon Subramanian et al. as a combining reference that allegedly suggests such features. Page 3, line 5 et seq. of the Office Action.

But Subramanian et al., as cited and relied upon by the Examiner, only describe a radio network controller packet-level scheduling technique:

“The frequency at which current radio conditions are updated depends on the rate at which feedback reports are generated in the system. When a report is desired for the downlink channel conditions, the scheduler, if located at the base station, sends a polling message to the mobile station in the system. The uplink channel conditions can be measured at the base station. If the scheduler is located at the radio network controller (RNC), the scheduler sends a polling message to the mobile stations for the downlink channel conditions and sends a polling message to the base station for the uplink channel conditions. The scheduler algorithm includes a parameter that represents the frequency at which reports are desired.” Paragraph [0011] of Subramanian et al. (Emphasis added)

In other words, Subramanian et al., as cited and relied upon by the Examiner, merely describe techniques and algorithms for packet scheduling at the above-cited locations.

And, as acknowledged by the Examiner, Attar et al. only describe an Access Terminal selecting Access Points based on link quality between the Access Terminal itself and the Access Points.

Thus, even assuming, arguendo, that it would have been obvious to one skilled in the art at the time the claimed invention was made to combine Attar et al. and Subramanian et al., such a combination would still clearly have failed to disclose or suggest the claimed features of a source apparatus selecting an active base station based on relative service quality between the base station and a destination apparatus.

In other words, such a combination would still have failed to disclose or suggest,

“[a] method of selecting an active base station for use during soft handover, the active base station being for receiving data from a source apparatus for onward transmission to a destination apparatus, the method comprising:

obtaining relative service quality with respect to said destination apparatus based on service quality of data transmission from a base station *to said destination apparatus* and service quality of data transmission from said base station to another destination apparatus;

transmitting said relative service quality from said base station *to said source apparatus*; and

selecting the active base station *by said source apparatus* based on the relative service quality received from said base station,” as recited in claim 1. (Emphasis added)

Accordingly, Applicants respectfully submit that claim 1, together with claims 2-20 dependent therefrom, is patentable over Attar et al. and Subramanian et al., separately and in combination, for at least the foregoing reasons. Claims 21, 26, and 33 incorporate features that correspond to those of claim 1 cited above, and are, therefore, together with claims 22-25 and

27-31 dependent from claims 21 and 26, respectively, patentable over the cited references for at least the same reasons.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

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Docket No.: FUJL 22.278 (100794-01010)

DTC:tb